

HOUSE No. 2351

By Mr. Greene of Billerica, petition of William G. Greene, Jr., and others for legislation relative to the taxation of forest, farm and recreation land. Revenue.

The Commonwealth of Massachusetts

PETITION OF:

William G. Greene, Jr.	Kevin G. Honan
Pamela P. Resor	Paul Kujawski
Matthew C. Patrick	Marian Walsh
David Paul Linsky	Michael E. Festa
Anthony J. Verga	Richard T. Moore
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Frank I. Smizik	James B. Eldridge
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Robert S. Creedon, Jr.	Thomas P. Kennedy
Eric Turkinginton	Stephen Kulik
Gale D. Candaras	Bradley H. Jones, Jr.

In the Year Two Thousand and Five.

AN ACT RELATIVE TO THE TAXATION OF FOREST, FARM AND RECREATION LAND.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of Chapter 61 of the General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended by
3 striking out the words “parcel,” land held by the same owner
4 under a deed of title upon which no subdivision plan is on file and
5 which has no encumbrance incompatible with the provisions of
6 this chapter,” and inserting in place of thereof the words:—
7 “Parcel,” land held by the same owner under a deed of title which
8 has no encumbrance incompatible with the provisions of this
9 chapter.

1 SECTION 2. The fifth paragraph of Section 2 of Chapter 61 of
2 the General Laws, as so appearing is hereby amended by striking
3 out the second sentence of the fifth paragraph the words “Sep-
4 tember first” and inserting in place thereof the following words:—
5 October first.

1 SECTION 3. Section 3 of chapter 61 of the General Laws, as so
2 appearing, is hereby amended by adding to the third sentence of
3 the third paragraph the following words:— provided, however,
4 that if it is determined that the amount of such annual products tax
5 would be less than ten dollars, no such tax shall be assessed.

1 SECTION 4. The fifth paragraph of section 3 of Chapter 61 of
2 the General Laws, as so appearing, is hereby amended by striking
3 out, in the fifth sentence, the word “section” and inserting in place
4 thereof the word:— chapter, and by striking out the word “sixty”
5 and inserting in place thereof the word: thirty.

1 SECTION 5. Section 7 of Chapter 61 of the General Laws, as
2 so appearing, is hereby amended by striking out the first and
3 second sentences and inserting in place thereof the following sen-
4 tences:—
5 When the owner of classified land withdraws land such or any
6 part thereof from classification, or upon a final determination that
7 said land be withdrawn from classification, he shall pay to the city
8 or town a withdrawal penalty tax equal to the difference between
9 the amount of taxes which would have been paid under chapter
10 fifty-nine and the sum of the products tax established by section
11 three of this chapter and the land taxes paid under the provisions
12 of this chapter. During the first certification period the withdrawal
13 penalty tax shall be computed for the number of years since certi-
14 fication. For the second and subsequent certification periods the
15 withdrawal penalty tax shall be computed for the current tax year
16 in which it is withdrawn and in the immediately preceding four
17 tax years; provided, however, that if the land involved is with-
18 drawn from classification for failure to timely apply and reclassify
19 pursuant to the provisions of section two, and the land is subse-
20 quently reclassified, no withdrawal penalty tax shall be assessed.
21 Notwithstanding the forgoing provisions, no withdrawal penalty

22 tax shall be applicable if the land involved or a lesser interest
23 therein is acquired for a natural resource purpose by the city or
24 town in which it is situated, by the Commonwealth or by a non-
25 profit conservation organization, provided, however, that if any
26 portion of said land is sold for or converted to commercial, resi-
27 dential, or industrial use within five years of acquisition by a non-
28 profit conservation organization, withdrawal taxes shall be
29 assessed against the non-profit conservation organization in such
30 amount as would have been assessed at the time of acquisition of
31 the subject parcel by the non-profit conservation organization had
32 such transaction been subject to a withdrawal penalty tax. There
33 shall be added to the tax due, under this chapter, for each taxable
34 year, an amount of interest determined at the rate as is established
34 under section thirty-two of chapter sixty-two C.

1 SECTION 6. Section 7 of Chapter 61 of the General Laws, as
2 so appearing, is hereby amended by adding at the end thereof the
3 following paragraph:—

4 Notwithstanding the provisions of this section, no tax will be
5 assessed on land that is reclassified under chapter 61A or
6 chapter 61B of the general laws.

1 SECTION 7. Chapter 61 of the General Laws, as so appearing,
2 is hereby amended by striking out section 8 and inserting in place
3 thereof the following section:—

4 Section 8. Conversion of land to residential, industrial or com-
5 mercial use; notice to city, or town; first refusal option.

6 Land taxed under this chapter shall not be sold for, or converted
7 to, residential, industrial or commercial use while so taxed or
8 within two years thereafter unless the city or town in which such
9 land is located has been notified of the intent to sell for, or to con-
10 vert to, such other use.

11 The discontinuance of forest certification shall not, in itself, for
12 the purposes of this section, be deemed a conversion. Specific use
13 of land for a residence for the owner or a parent, grandparent,
14 child, grandchild, or brother or sister of the owner, or surviving
15 husband or wife of any deceased such relative, or for living quar-
16 ters for any persons actively employed full time in the forest use
17 of such land, shall not be a conversion for the purposes of this

18 section and a certificate of the board of assessors, recorded with
19 the registry of deeds, shall conclusively establish that a particular
20 use is such a use.

21 Any such notice of intent to sell for such other use shall be
22 accompanied by a statement of intent to sell, a statement of pro-
23 posed use of such land, the location and acreage of land as shown
24 on a map drawn at the scale of the assessors map in the city or
25 town in which the land is situated, the name, address and tele-
26 phone number of the landowner and his attorney, if any, and the
27 name, address and telephone number of the buyer and his
28 attorney, if any. Any such notice of intent to sell for other use
29 shall be accompanied by a certified copy of an executed purchase
30 and sale agreement specifying the purchase price and all terms
31 and conditions of such proposed sale, which is limited to only the
32 property classified under this chapter, which shall be a bona fide
33 offer described below. Any such notice of intent to sell for other
34 use shall also be accompanied by any additional agreements or a
35 statement of any additional consideration for any contiguous land
36 under the same ownership and not classified under this chapter, but
37 sold or to be sold contemporaneously with such proposed sale. For
38 the purposes of this chapter, a bona fide offer to purchase shall
39 mean a good faith offer, not dependent upon conditions or contin-
40 gencies relating to the suitability of the property for residential,
41 industrial or commercial use, made by a party unaffiliated with the
42 landowner for a fixed consideration payable upon delivery of the
43 deed.

44 Any such notice of intent to convert to such other use shall be
45 accompanied by a statement of intent to convert, a statement of
46 proposed use of such land, the location and acreage of land as
47 shown on a map drawn at the scale of the assessors map in the city
48 or town in which the land is situated, the name, address and tele-
49 phone number of the landowner and his attorney if any. Such
50 notice of intent to sell or convert shall be sent by the landowner
51 by certified mail to the mayor and city council of a city, or board
52 of selectmen of a town, and in the case of either a city or a town,
53 to its board of assessors, to its planning board and conservation
54 commission, if any, and to the state forester. An affidavit by a
55 notary that he has mailed a notice of intent to sell or convert on
56 behalf of a landowner shall be conclusive evidence that he has so

57 mailed such notice in the manner and at the time specified in such
58 and each such affidavit shall have attached to it a copy of the
59 notice of intention to which it relates. Such notice of intent to sell
60 or convert shall be deemed to have been duly mailed if addressed
61 to the mayor and city council or board of selectmen in care of the
62 town or city clerk; in the case of the planning board and conserva-
63 tion commission, if addressed to them directly, and in the case of
64 notice to the state forester, if addressed to the Commissioner of
65 the Department of Conservation and Recreation.

66 If such notice of intent to sell or convert does not contain all of
67 the material as described above, then the town or city, within 30
68 days of receipt, shall notify the landowner in writing that notice is
69 insufficient and does not comply.

70 For a period of 120 days subsequent to such notice, said period
71 beginning upon the day following the latest date of deposit in the
72 United States mail of any such notice which complies with the
73 provisions of this section, said city or town shall have, in the case
74 of intended sale, a first refusal option to meet a bona fide offer to
75 purchase said land, or, in the case of intended or determined con-
76 version not involving sale, an option to purchase said land at full
77 and fair market value to be determined by an impartial appraisal.
78 In the case of an intended conversion not involving sale, the
79 landowner may not revoke the notice of intent within said period.

80 Such option may be exercised only by written notice signed by
81 the mayor or board of selectmen, mailed to the landowner by cer-
82 tified mail at such address as may be specified in his notice of
83 intent. Such notice of exercise shall also be recorded at the reg-
84 istry of deeds and shall contain the name of the record owner of
85 the land and description of the premises adequate for identifica-
86 tion thereof. Such notice of exercise to the landowner shall be
87 accompanied by a proposed purchase and sale contract or other
88 agreement between the city or town and the landowner which, if
89 executed, shall be fulfilled within a period of not more than sixty
90 days, or upon expiration of any extended period said landowner
91 has agreed to in writing, from the date such contract or agreement,
92 endorsed by the landowner, is returned by certified mail to the
93 mayor or board of selectmen.

94 After a public hearing, said city or town may assign its option
95 to a non-profit conservation organization or to the commonwealth

96 or its political subdivisions under such terms and conditions as the
97 mayor or board of selectmen may deem appropriate. Notice of
98 such public hearing shall be given in accordance with the provi-
99 sions of section twenty-three B of chapter thirty-nine. Such
100 assignment shall be for the purpose of maintaining no less than
101 fifty percent of said land in use as forest land as defined in section
102 one of this chapter, as agricultural and horticultural land as
103 defined in sections one and two of chapter sixty-one A or as recre-
104 ation land as defined in section one of chapter sixty-one B. If the
105 first refusal option has been assigned to a non-profit conservation
106 organization or to the commonwealth or its political subdivisions
107 as provided in this section, the mayor or board of selectmen shall
108 provide written notice of assignment to the landowner. Said notice
109 of assignment shall state the name and address of such organiza-
110 tion or agency of the commonwealth which will exercise the
111 option in addition to the terms and conditions of such assignment
112 and shall be recorded with the registry of deeds. Failure to record
113 either said notice of exercise or said notice of assignment within
114 the 120 day period shall be conclusive evidence that the city or
115 town has not exercised its option.

116 If the option has been assigned to a non-profit conservation
117 organization or to the commonwealth or its political subdivisions,
118 such option may be exercised only by written notice to the
119 landowner signed by the assignee, mailed to the landowner signed
120 by certified mail at such address as may be specified in his notice
121 of intent. Such notice of exercise shall also be recorded with the
122 registry of deeds and shall contain the name of the record owner
123 of the land and description of the premises adequate for identifica-
124 tion thereof. Such notice of exercise to the landowner shall be
125 accompanied by a proposed purchase and sale contract or other
126 agreement between the assignee and landowner which, if exe-
127 cuted, shall be fulfilled within a period of not more than sixty
128 days, or upon expiration of any extended period said landowner
129 has agreed to in writing, from the date such contract or agreement,
130 endorsed by the landowner, is returned by certified mail to the
131 assignee.

132 During the one hundred and twenty day period, said city or
133 town or its assignees, shall have the right, at reasonable times and
134 upon reasonable notice, to enter upon said land for the purpose of

135 surveying and inspecting said land, including but not limited to
136 soil testing and the taking of soil and water samples.

137 If the city or town elects not to exercise said option, and not to
138 assign its right to exercise said option, said city or town shall send
139 written notice of non-exercise signed by the mayor or board of
140 selectmen to the landowner by certified mail at such address as
141 may be specified in his notice of intent. Said notice of non-exer-
142 cise shall contain the name of the record owner of the land and
143 description of the premises adequate for identification thereof, and
144 shall be recorded with the registry of deeds.

145 No sale or conversion of such land shall be consummated
146 unless and until said option period shall have expired or said
147 notice of non-exercise shall have been recorded with the registry
148 of deeds, provided further, that no sale of such land shall be con-
149 summated if the terms of the sale in any material way from the
150 terms of the purchase and sale agreement which accompanied the
151 bona fide offer purchase as described in the notice of intent to sell.

152 The provisions of this section shall not be applicable with
153 respect to a mortgage foreclosure sale, but the holder of a mort-
154 gage shall, at least ninety days before a foreclosure sale, send
155 written notice of the time and place of such sale to the parties in
156 the manner above described in this section for notice of intent to
157 sell or convert, and the giving of such notice may be established
158 by an affidavit as above set forth.

1 SECTION 8. Chapter 61A of the General Laws, as so
2 appearing, is hereby amended by striking out section 2 and
3 inserting in place thereof the following section:—

4 Section 2. Land in horticultural use defined. Land shall be
5 deemed to be in horticultural use when primarily and directly used
6 in raising fruits, vegetables, berries, nuts and other foods for
7 human consumption, feed for animals, tobacco, flower, sod, trees,
8 nursery or greenhouse products, and ornamental plants and shrubs
9 for the purpose of selling such products in the regular course of
10 business; or when primarily and directly used in raising forest
11 products under a certified forest management plan designed to
12 improve the quantity and quality of a continuous crop for the pur-
13 pose of selling such products in the regular course of business,
14 provided that such plan is approved by and subject to procedures

15 established by the state forester; or when primarily and directly
16 used in a related manner which is incidental thereto and represents
17 a customary and necessary use in raising such products and
18 preparing them for market.

1 SECTION 9. The first sentence of section 7 of chapter 61A of
2 the General Laws, as so appearing, is hereby amended by striking
3 out, in line 3, the words “December thirty-first” and inserting in
4 place thereof the words:— June thirtieth.

1 SECTION 10. Chapter 61A of the General Laws, as so
2 appearing in the 1998 Official Edition, is hereby amended by
3 striking out section 8 in its entirety.

1 SECTION 11. The second paragraph of section 11 of
2 chapter 61A of the General Laws, as so appearing, is hereby
3 amended by striking out, in line 22, the words “from the agricul-
4 tural purposes fund” and inserting in place thereof the following
5 words:— for the farmland valuation advisory commission.

1 SECTION 12. Section 12 of chapter 61A of the General Laws,
2 as so appearing, is hereby amended by striking out the fourth sen-
3 tence and inserting in place thereof the following sentence:—

4 Said conveyance tax shall be due and payable by the grantor at
5 the time of transfer of the property by deed or other instrument of
6 conveyance and shall be payable to the tax collector of the city or
7 town in which the property is entered upon the tax list; provided,
8 that, in the case of taking by eminent domain, the value of the
9 property taken shall be determined in accordance with the provi-
10 sions of chapter seventy-nine and the amount of conveyance tax,
11 if any, shall be added thereto as an added value; and provided fur-
12 ther, that if there is filed with the board of assessors an affidavit
13 by the purchaser that such land is being purchased for agricultural,
14 horticultural or agricultural and horticultural use, no conveyance
15 tax shall be payable by the seller by reason of such sale, but if
16 such land is not in fact continued in such use for at least ten con-
17 secutive years, the purchaser shall be liable for any conveyance
18 tax that would have been payable on such sale as a sale for other
19 use.

1 SECTION 13. Section 12 of chapter 61A of the General Laws,
2 as so appearing, is hereby further amended by inserting following
3 the second sentence the following:-Notwithstanding the foregoing
4 provisions, no conveyance tax shall be assessed if the land
5 involved, or lesser interest therein is acquired for a natural
6 resource purpose by the city or town in which it is situated, by the
7 Commonwealth or by a non-profit conservation organization, pro-
8 vided however, that if any portion of said land is sold or converted
9 to commercial, residential or industrial use within five years of
10 acquisition by a non-profit conservation organization, the con-
11 veyance tax shall be assessed against a non-profit conservation
12 organization in such amount as would have been assessed at the
13 time of acquisition of the subject parcel by the non-profit conser-
14 vation organization had such transaction been subject to a con-
15 veyance tax.

1 SECTION 14. Section 12 of chapter 61A of the General Laws,
2 as so appearing, is hereby further amended by inserting at the end
3 thereof the following paragraph:—
4 Notwithstanding the provisions of this section, no tax will be
5 assessed on land that is reclassified under chapter 61 or
6 chapter 61B of the general laws.

1 SECTION 15. Section 13 of chapter 61A of the General Laws,
2 as so appearing, is hereby amended by striking out the first and
3 second sentences and inserting in place thereof the following sen-
4 tences:—
5 Whenever land which is valued, assessed and taxed under this
6 chapter no longer qualifies as actively devoted to agricultural,
7 horticultural or agricultural and horticultural use, it shall be sub-
8 ject to additional taxes, hereinafter referred to as roll-back taxes,
9 in the current tax year in which it is disqualified and in such of the
10 four immediately preceding tax years in which the land was so
11 valued, assessed and taxed; provided that such roll-back taxes
12 shall not be applicable unless the amount thereof as computed
13 pursuant to this section, exceeds the amount, if any, imposed
14 under the provisions of section twelve and, in such case, the land
15 shall not be subject to the conveyance tax imposed under said
16 section twelve. For each year, the roll-back tax shall be an amount

17 equal to the difference, if any, between the taxes paid or payable
18 in accordance with the provisions of this chapter and the taxes that
19 would have been paid or payable had the land been valued,
20 assessed and taxed without regard to such provisions.

1 SECTION 16. Section 13 of this chapter 61A of the General
2 Laws, as so appearing, is hereby further amended by adding the
3 following paragraph:—

4 If the board of assessors determine that the total amount of roll-
5 back taxes to be assessed pursuant to this section would be less
6 than ten dollars, no such tax shall be assessed.

1 SECTION 17. Chapter 61A of the General Laws, as so
2 appearing, is hereby amended by striking out section 14 and
3 inserting in place thereof the following section:—

4 Section 14. Sale for or conversion to residential or commercial
5 use; notice of intent to city or town; option to purchase; assign-
6 ment of option.

7 Land which is valued, assessed and taxed on the basis of its
8 agricultural or horticultural use under an application filed and
9 approved pursuant to this chapter shall not be sold for or con-
10 verted to residential, industrial or commercial use while so valued,
11 assessed and taxed or within two years thereafter unless the city or
12 town in which such land is located has been notified of intent to
13 sell for or convert to such other use; provided, however, that the
14 discontinuance of the use of such land for agricultural and horti-
15 cultural purposes shall not, in itself, for the purposes of this
16 section, be deemed a conversion.

17 Specific use of land for a residence for the owner or a parent,
18 grandparent, child, grandchild, or brother or sister of the owner, or
19 the surviving husband and wife of any deceased such relative, or
20 for living quarters for any persons actively employed full time in
21 the agricultural or horticultural use such land, shall not be deemed
22 to be a conversion for purposes of this section and a certificate of
23 the board of assessors, recorded with the registry of deeds, shall
24 conclusively establish that a particular use is such a use.

25 Any such notice of intent to sell for or convert to such other use
26 shall be accompanied by a statement of intent to sell, a statement
27 of proposed use of such land, the location and acreage of land as

28 shown on a map drawn at the scale of the assessor's map in the
29 city or town in which the land is situated, the name, address and
30 telephone number of the buyer and his attorney, if any.

31 Any such notice of intent to sell for other use shall also be
32 accompanied by a certified copy of an executed purchase and sale
33 agreement specifying the purchase price and all terms and condi-
34 tions of such proposed sale, and which is limited to only the prop-
35 erty classified under this chapter, which shall be a bona fide offer
36 as described below. Any such notice of intent to sell for other use
37 shall also be accompanied by any additional agreements or a state-
38 ment of any additional consideration for any contiguous land
39 under the same ownership and not classified under this chapter but
40 sold or to be sold contemporaneously with such proposed sale.

41 For the purposes of this chapter, a bona fide offer to purchase
42 shall mean a good faith offer, not dependent upon conditions of
43 contingencies relating to the suitability of the property for resi-
44 dential, industrial or commercial use, made by a party unaffiliated
45 with the landowner for a fixed consideration payable upon
46 delivery of the deed.

47 Such notice of intent to sell or convert shall be sent by the
48 landowner by certified mail to the mayor and the city council of a
49 city, or board of selectmen of a town, and in the case of either a
50 city or town, to its board of assessors, and to its planning board
51 and conservation commission, if any, and to the Department of
52 Agricultural Resources. An affidavit by a notary that he has
53 mailed a notice of intent to sell or convert on behalf of a
54 landowner shall be conclusive evidence that he has so mailed such
55 notice in the manner and at the time specified in such and each
56 such affidavit shall have attached to it a copy of the notice of
57 intention to which it relates. Such notice of intent to sell or con-
58 vert shall be deemed to have been duly mailed if addressed to the
59 mayor and city council or board of selectmen in care of the town
60 or city clerk; in the case of the planning board and conservation
61 committee, if addressed to them directly, and in the case of notice
62 to the Department of Agricultural Resources, if addressed to the
63 Commissioner of the Department of Agricultural Resources.

64 If such notice of intent to sell or convert does not contain all of
65 the material as described above, then the town or city, within 30
66 days of receipt, shall notify the landowner in writing that notice is
67 insufficient and does not comply.

68 For a period of 120 days subsequent to such notice, said period
69 beginning upon the day following the latest date of deposit in the
70 United States mail of any such notice which complies with the pro-
71 visions of this section, said city or town shall have, in the case of
72 intended sale, a first refusal option to meet a bona fide offer to
73 purchase said land, or, in the case of intended or determined con-
74 version not involving sale, an option to purchase said land at full
75 and fair market value to be determined by an impartial appraisal.
76 In the case of an intended conversion not involving sale, the
77 landowner may not revoke the notice of intent within said period.

78 Such option may be exercised only by written notice signed by
79 the mayor or board of selectmen, mailed to the landowner by cer-
80 tified at such address as may be specified in his notice of intent.
81 Such notice of exercise shall also be recorded at the registry of
82 deeds and shall contain the name of the record owner of the land
83 and description of the premises adequate for identification thereof.
84 Such notice of exercise to the landowner shall be accompanied by
85 a proposed purchase and sale contract or other agreement between
86 the city or town and the landowner which, if executed, shall be
87 fulfilled within a period of not more than sixty days, or upon expi-
88 ration of any extended period said land owner has agreed to in
89 writing, from the date such contract or agreement, endorsed by the
90 landowner, is returned by certified mail to the mayor or board of
91 selectmen.

92 After a public hearing, said city or town may assign its option
93 to a nonprofit conservation organization or to the commonwealth
94 or its political subdivisions under such terms and conditions as the
95 mayor or board of selectmen may deem appropriate. Notice of
96 such public hearing shall be given in accordance with the provi-
97 sions of section twenty-three B of chapter thirty-nine. Such
98 assignment shall be for the purpose of maintaining no less than
99 fifty percent of said land in use as forest land as defined in section
100 one of chapter sixty-one, as agricultural or horticultural land as
101 defined in sections one and two of this chapter or as recreation
102 land as defined in section one of chapter sixty-one B. If the first
103 refusal option has been assigned to a nonprofit conservation orga-
104 nization or to the commonwealth or its political subdivisions as
105 provided in this section, the mayor or board of selectmen shall
106 provide written notice to assignment to the landowner. Said notice

107 of assignment shall state the name and address of such organiza-
108 tion or agency of the commonwealth which will exercise the
109 option in addition to the term and conditions of such assignment
110 and shall be recorded with the registry of deeds. Failure to record
111 either said notice of exercise or said notice of assignment within
112 the 120 day period shall be conclusive evidence that the city or
113 town has not exercised its option.

114 If the option has been assigned to a nonprofit conservation
115 organization or to the commonwealth or its political subdivisions,
116 such option may be exercised only by written notice to the
117 landowner signed by the assignee, mailed to the landowner by cer-
118 tified mail at such address as may be specified in his notice of
119 intent. Such notice of exercise shall also be recorded with the reg-
120 istry of deeds and shall contain the name of the record owner of
121 the land and description of the premises adequate for identifica-
122 tion thereof. Such notice of exercise to the landowner shall be
123 accompanied by a proposed purchase and sale contract or other
124 agreement between the assignee and the landowner which, if exe-
125 cuted, shall be fulfilled within a period of not more than sixty
126 days, or upon expiration of any extended period said landowner
127 has agreed to in writing, from the date such contract or agreement,
128 endorsed by the landowner, is returned y certified mail to the
129 assignee.

130 During the one hundred and twenty day period, said city or
131 town or its assignees, shall have the right, at reasonable times and
132 upon reasonable notice, to enter upon said land for the purpose of
133 surveying and inspecting said land, including but not limited to
134 soil testing and inspecting said land, including but not limited to
135 soil testing and the taking of soil and water samples. If the city or
136 town elects not to exercise said option, and not to assign its right
137 to exercise said option, said city or town shall send written notice
138 of non-exercise signed by the mayor or board of selectmen to the
139 landowner by certified mail at such address as may be specified in
140 his notice of intent.

141 Said notice of non-exercise shall contain the name of the record
142 owner of the land and description of the premises adequate for
143 identification thereof, and shall be recorded with the registry of
144 deeds.

145 No sale or conversion of such land shall be consummated
146 unless and until said option period have expired or said notice of
147 non-exercise shall have been recorded with the registry of deeds,
148 provided further, that no sale of such land shall be consummated
149 if the terms of the sale differ in any material way from the terms
150 of the purchase and sale agreement which accompanied the bona
151 fide offer to purchase as described in the notice of intent to sell.
152 The provisions of this section shall not be applicable with respect
153 to a mortgage foreclosure sale, but the holder of a mortgage shall,
154 at least ninety days before a foreclosure sale, send written notice
155 of the time and place of such sale to the parties in the manner
156 above described in this section for notice of intent to sell or con-
157 vert, and the giving of such notice may be established by an affi-
158 davit as above set forth.

1 SECTION 18. The third sentence of section 19 of chapter 61A
2 of the General Laws, as appearing in the 1998 Official Edition, is
3 hereby amended by striking out the words “sixty days” and
4 inserting in place thereof the following words:— thirty days.

1 SECTION 19. The first sentence of section 4 of chapter 61B of
2 the General Laws, as appearing in the 1998 Official Edition, is
3 hereby amended by striking out, in line 3, the words “December
4 thirty-first” and inserting in place thereof the following words:—
5 June thirtieth.

1 SECTION 20. Chapter 61B of the General Laws, as so
2 appearing in the 1998 Official Edition, is hereby amended by
3 striking out section 5 in its entirety.

1 SECTION 21. Section 6 of chapter 61B of the General Laws, as
2 so appearing, is hereby amended by adding at the end thereof the
3 following paragraph:—

4 All recording fees paid pursuant to the provisions of this
5 chapter whether for statements of liens, certificates, releases or
6 otherwise shall be borne by the owner of record of the land.

1 SECTION 22. Section 7 of chapter 61B of the General Laws, as
2 so appearing, is hereby amended by striking out the fourth sen-
3 tence and inserting in place thereof the following:—

4 Said conveyance tax shall be due and payable by the grantor at
5 the time of transfer of the property by deed or other instrument of
6 conveyance and shall be payable to the tax collector of the city or
7 town in which the property is entered upon the tax list; provided
8 however, that in the case of taking by eminent domain, the value
9 of the property taken shall be determined in accordance with the
10 provisions of chapter seventy-nine and the amount of conveyance
11 tax, if any, shall be added thereto as an added value; and provided,
12 further, that if there is filed with the board of assessors an affi-
13 davit by the purchaser that such land is being purchased for recre-
14 ational use, no conveyance tax shall be payable by the seller by
15 reason of such sale, but if such land is not in fact continued in
16 such use for at least ten consecutive years, the purchaser shall be
17 liable for any conveyance tax that would have been payable on
18 such sale as a sale for other use.

19 Notwithstanding the foregoing provisions, no conveyance tax
20 shall be applicable if the land involved or a lesser interest therein
21 is acquired by the city or town in which it is situated, by the Com-
22 monwealth or by a nonprofit conservation organization, provided
23 however, that if any portion of said land is sold for or converted to
24 commercial, residential, or industrial use within five years of
25 acquisition by a nonprofit conservation organization, a con-
26 veyance tax shall be assessed against the non-profit conservation
27 organization in such amount as would have been assessed at the
28 time of acquisition of the subject parcel by the nonprofit conser-
29 vation organization had such transaction been subject to a con-
30 veyance tax.

1 SECTION 23. The second paragraph of section 7 of
2 chapter 61B of the General Laws, as so appearing, is hereby
3 amended by inserting, at the beginning thereof, the following sen-
4 tence:—

5 Except with respect to eminent domain takings, the provisions
6 of this section shall not be applicable to the following: mortgage
7 deeds; deeds to or by the city or town in which such land is
8 located; deeds which correct, modify, supplement or confirm a
9 deed previously recorded; deeds between husband and wife and
10 parent and child when no consideration is received; tax deeds;
11 deeds releasing any property which is a security for a debt or

12 other obligation; deeds for division of property between owners
13 without monetary consideration; foreclosures of mortgages and
14 conveyances by the foreclosing parties; deeds made pursuant to a
15 merger of a corporation or by a subsidiary corporation to its parent
16 corporation for no consideration other than cancellation and sur-
17 render of capital stock of such subsidiary which do not change
18 beneficial ownership; and property transferred by devise or other
19 as a result of death.

1 SECTION 24. Section 8 of chapter 61B of the General Laws, as
2 so appearing, is hereby amended by striking out the first sentence
3 and inserting in place thereof the following:—

4 Whenever land which is valued, assessed and taxed under this
5 chapter no longer qualifies as classified recreational land it shall
6 be subject to additional taxes, hereunder referred to as rollback
7 taxes, in the current tax year which it is disqualified and in such of
8 four immediately preceding tax years in which the land was so
9 valued, assessed and taxed; provided, however, that such roll-back
10 taxes shall not be applicable unless the amount thereof as com-
11 puted pursuant to this section, exceeds the amount, if any,
12 imposed under the provisions of section seven and, in such case,
13 the land shall not be subject to the conveyance tax imposed under
14 said section seven.

15 Notwithstanding the foregoing provisions, no roll-back taxes
16 shall be applicable if the land involved or a lesser interest therein
17 is acquired for a natural resource purpose by the city or town in
18 which it is situated, by the Commonwealth or by a nonprofit con-
19 servation organization, provided, however, that if any portion of
20 said land is sold for or converted to commercial, residential, or
21 industrial use within five years of acquisition by a nonprofit con-
22 servation organization, roll-back taxes shall be assessed against
23 the non-profit conservation organization at the time of acquisition
24 of the subject parcel by the non-profit conservation organization
25 had such transaction been subject to a roll-back tax.

1 SECTION 25. Section 8 of chapter 61B of the General Laws, as
2 so appearing, is hereby further amended by adding the following
3 paragraph:—

4 If the board of assessors determines that the total amount of the
5 rollback taxes to be assessed pursuant to this section, prior to the
6 addition of any interest as provided for I the preceding paragraph,
7 would be less than ten dollars, no such tax shall be assessed.

1 SECTION 26. Chapter 61B of the General Laws, as so
2 appearing, is hereby amended by striking out section 9 and
3 inserting in place thereof the following section:—

4 Section 9. Notice of intent to sell or convert to other use.

5 Land which is valued, assessed and taxed on the basis of its
6 recreational use under an application filed and approved pursuant
7 to this chapter shall not be sold for or converted to residential,
8 industrial or commercial use while so valued, assessed and taxed
9 or within two years thereafter, unless the city or town in which
10 such land is located has been notified of intent to sell for or con-
11 vert to such other use; provided however, that the discontinuance
12 of the use of such land for recreational purpose shall not, in itself,
13 except to the extent provided herein, be deemed a conversion.

14 Specific use of land for a residence for the owner or his spouse
15 or a parent, grandparent, child, grandchild, or brother or sister of
16 the owner, or the surviving husband or wife of any deceased such
17 relative, or for living quarters for any persons actively employed
18 full time in the recreational use of such land, shall not be deemed
19 to be a conversion for purposes of this section and a certificate of
20 the board of assessors, recorded with the registry of deeds, shall
21 conclusively establish that a particular use is such a use.

22 Any such notice of intent to sell to such other use shall be
23 accompanied by a statement of intent to sell, a statement of pro-
24 posed use of such land, the location and acreage of land as shown
25 on a map drawn at the scale of the assessor's map in the city or
26 town in which the land is situated, the name, address and tele-
27 phone number of the landowner and his attorney, if any, and the
28 name, address and telephone number of the buyer and his
29 attorney, if any. Any such notice of intent to sell for other use
30 shall also be accompanied by a certified copy of an executed pur-
31 chase and sale agreement specifying the purchase price and all
32 terms and conditions of such proposed sale, and which is limited
33 to only the property classified under this chapter, which shall be a
34 bona fide offer as described below. Any such notice of intent to

35 sell for other use shall also be accompanied by any additional
36 agreements or a statement of any additional consideration for any
37 contiguous land under the same ownership and not classified
38 under this chapter but sold or to be sold contemporaneously with
39 such proposed sale. For the purposes of this chapter, a bona fide
40 offer to purchase shall mean a good faith offer, not dependent
41 upon conditions or contingencies relating to the suitability of the
42 property for residential, industrial or commercial use, made by a
43 party unaffiliated with the landowner for a fixed consideration
44 payable upon delivery of the deed.

45 Any such notice of intent to convert to such other use shall be
46 accompanied by a statement of intent to convert, a statement of
47 proposed use of such land, the location and acreage of land as
48 shown on a map drawn at the scale of the assessor's map in the
49 city or town in which the land is situated, the name, address and
50 telephone number of the landowner and his attorney, if any.

51 Such notice of intent to sell or convert shall be sent by the
52 landowner by certified mail to the mayor and city council of a
53 city, and in the case of either a city or town, to its board of assess-
54 sors, and to its planning board and a conservation commission, if
55 any, and to the Division of Conservation Services. An affidavit by
56 a notary public that he has mailed a notice of intent to sell or con-
57 vert on behalf of a landowner shall be conclusive evidence that he
58 has so mailed such notice in the manner and at the time specified
59 in such and in each such affidavit shall have attached to it a copy
60 of the notice of intention relates. Such notice of intent to sell or
61 convert shall be deemed to have been duly mailed if addressed to
62 the mayor and city council or board of selectmen in care of the
63 town or city clerk; in the case of the planning board and conserva-
64 tion commission, if addressed to them directly, and in the case of
65 notice to the state forester, if addressed to the Director of Division
66 of Conservation Services.

67 If such notice of intent to sell or convert does not contain all of
68 the material as described above, then the town or city, within 30
69 days of receipt, shall notify the landowner in writing that the
70 notice is insufficient and does not comply.

71 For a period of 120 days subsequent to such notice, said period
72 beginning upon the day following the latest date of deposit in the
73 United States mail of any such notice which complies with the

74 provisions of this section, said city or town shall have, in the case
75 of intended sale, a first refusal option to meet a bona fide offer to
76 purchase said land, or, in the case of intended or determined con-
77 version not involving sale, an option to purchase said land at full
78 and fair market value to be determined by an impartial appraisal.
79 In the case of an intended conversion not involving sale, the
80 landowner may not revoke the notice of intent within said period.
81 Such option may be exercised only written by notice signed by the
82 mayor or board of selectmen, mailed to the landowner by certified
83 mail at such address as may be specified in his notice of intent.
84 Such notice of exercise shall also be recorded at the registry of
85 deeds and shall contain the name of the record of owner of the
86 land and description of the premises adequate for identification
87 thereof. Such notice of exercise to the landowner shall be accom-
88 panied by a proposed purchase and sale contract or other agree-
89 ment between the city or town and the land owner which, if
90 executed, shall be fulfilled within a period of not more than sixty
91 days, or upon expiration of any extended period said landowner
92 has agreed to in writing, from the date such contract or agreement,
93 endorsed by the landowner, is returned by certified mail to the
94 mayor or board of selectmen.

95 After a public hearing, said city or town may assign its option
96 to a nonprofit conservation organization or to the commonwealth
97 or its political subdivisions under such terms and conditions as the
98 mayor or board of selectmen may deem appropriate. Notice of
99 such public hearing shall be given in accordance with the provi-
100 sions of section twenty-three B of chapter thirty-nine. Such
101 assignment shall be for the purpose of maintaining no less than
102 fifty percent of said land in use as forest land as defined in section
103 one of chapter sixty-one, as agricultural or horticultural land as
104 defined in sections one and two of chapter sixty-one A or as recre-
105 ation land as defined in section one of this chapter. If the first
106 refusal option has been assigned to a nonprofit conservation orga-
107 nization or to the commonwealth or its political subdivisions as
108 provided in this chapter, the mayor or board of selectmen shall
109 provide written notice of assignment to the landowner. Said notice
110 of assignment shall state the name and address of such organiza-
111 tion or agency of the commonwealth which will exercise the
112 option in addition to the terms and conditions of such assignment

113 and shall be recorded with the registry of deeds. Failure to record
114 either said notice of exercise or said notice of assignment within
115 the 120 period shall be conclusive evidence that the city or town
116 has not exercised its option.

117 If the option has been assigned to a nonprofit conservation
118 organization or to the commonwealth or its political subdivisions,
119 such option may be exercised only by written notice to the
120 landowner signed by the assignee, mailed to the land owner by
121 certified mail at such address as may be specified in his notice of
122 intent. Such notice of exercise shall also be recorded with the reg-
123 istry of deeds and shall contain the name of the record owner of
124 the land and description of the premises adequate for identifica-
125 tion thereof. Such notice of exercise to the landowner shall be
126 accompanied by a proposed purchase and sale contract or other
127 agreement between the assignee and the landowner which, if exe-
128 cuted, shall be fulfilled within a period of not more than sixty
129 days, or upon expiration of any extended period said landowner
130 has agreed to in writing from the date such contract or agreement,
131 endorsed by the landowner, is returned by certified mail to the
132 assignee.

133 During the one hundred and twenty day period, said city or
134 town or its assignee, shall have the right, at reasonable times and
135 upon reasonable notice, to enter upon said land for the purpose of
136 surveying and inspecting said land, including but not limited to
137 soil testing and the taking of soil and water samples. If the city or
138 town elects not to exercise said option, and not to assign its right
139 to exercise said option, said city or town shall send written notice
140 of non-exercise signed by the mayor or board of selectmen to the
141 landowner by certified mail at such address as my be specified in
142 his notice of intent. Said notice of non-exercise shall contain the
143 name of the record owner of the land and description of the
144 premises adequate for identification thereof, and shall be recorded
145 with the registry of deeds.